



Packet No.: SPRX-0068

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of :  
Mark L. FAUPEL, et al. :  
Serial No.: 10/647,222 :  
Filed: August 26, 2003 : Customer No.: 34610  
For: SYSTEM AND METHOD FOR DETERMINING TISSUE CHARACTERISTICS

**INFORMATION DISCLOSURE STATEMENT**

U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, Virginia 22202

Sir:

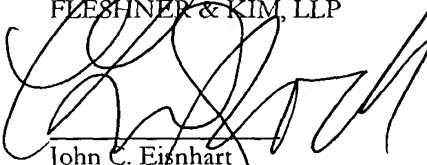
Pursuant to 37 C.F.R. 1.56, the attention of the Patent and Trademark Office is hereby directed to the reference(s) listed on the attached PTO-1449. One copy of each reference is attached. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the reference(s) be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the indicated date. Applicant reserves the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered. This statement should not be construed as a representation that a search has been made, that information cited in the statement is considered to be and/or is material to patentability, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. It is further understood that the Examiner will consider information that was cited or submitted to the U.S. Patent and Trademark Office in a prior application relied on under 35 U.S.C. §120. 1138 OG 37, 38 (May 19, 1992).

- X 1. This Information Disclosure Statement is being filed (i) within three months of the U.S. filing date of a U.S. application other than a CPA continued prosecution application under §1.53(d) OR (ii) within three months of the date of entry of the national stage as set forth in §1.491 in an international application OR (iii) before the mailing date of a first Office Action on the merits. No certification or fee is required. 37 C.F.R. §1.97(b).
- 2. This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection OR Notice of Allowance OR an action that otherwise closes prosecution in the application. 37 C.F.R. §1.97(c).
- a. I hereby state that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. 1.97(e)(1).

- b. I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. §1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. 1.97(e)(2).
- c. Attached is our check no. \_\_\_\_\_ in the amount of \$180.00 in payment of the fee under 37 C.F.R. 1.17(p). Please credit or debit Deposit Account No. 16-0607 as needed to ensure consideration of the disclosed information. Two duplicate copies of this paper are attached.
- 3. This Information Disclosure Statement is being filed after the mailing date of a Final Rejection OR Notice of Allowance OR an action that otherwise closes prosecution in the application, but on or before payment of the Issue Fee. Attached is our check no. \_\_\_\_ in the amount of \$180.00 in payment of the fee under 37 C.F.R. 1.17(p). Please credit or debit Deposit Account No. 16-0607 as needed to ensure consideration of the disclosed information. Two duplicate copies of this paper are attached. 37 C.F.R. §1.97(d).
- a. I hereby state that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. 1.97(e)(1).
- b. I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. §1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. 1.97(e)(2).
- X 4. Copies of the references were cited by or submitted to the Office in parent applications U.S. Patent Application Serial Nos. 10/611,917 filed July 3, 2003, 10/603,597 filed June 26, 2003, 10/337,687 filed January 8, 2003, and 10/446,857 filed May 29, 2003, and International Application No. PCT/US02/06350 filed March 1, 2002, which are relied upon for an earlier filing date under 35 U.S.C. §120. Thus, copies of these references are not attached. 37 C.F.R. §1.98(d).
- X 5. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
FLESHNER & KIM, LLP

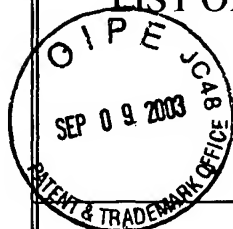
  
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703 502-9440 JCE/CLD:jab  
Date: September 9, 2003

**Please direct all correspondence to Customer Number 34610**

# LIST OF PRIOR ART CITED BY APPLICANT

(PTO-1449)



ATTY. DOCKET NO.  
**SPRX-0068**

APPLN. SERIAL NO.  
**10/647,222**

APPLICANT(S)  
**Mark L. FAUPEL, et al.**

CUSTOMER NO. 34610

FILING DATE  
**August 26, 2003**

GROUP  
**To Be Assigned**

## U.S. PATENT DOCUMENTS

EXAMINER'S INITIALS	*PATENT NO.	*ISSUE DATE	*INVENTOR NAME	CLASS	SUBCLASS	FILING DATE
	3,494,354	02/10/70	YOKOTA et al.			
	4,056,724	11/01/77	HARTE			
	4,071,020	01/31/78	PUGLIESE			
	4,084,905	04/18/78	SCHREIBER et al.			
	4,099,872	07/11/78	WHITE			
	4,115,699	09/19/78	MIZUTA et al.			
	4,122,348	10/24/78	BRUCK			
	4,125,828	11/14/78	RESNICK et al.			
	4,127,773	11/28/78	WEST			
	4,131,800	12/26/78	BRUCK et al.			
	4,144,452	03/13/79	HARTE			
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	4,162,405	07/24/79	CHANCE et al.			
	4,203,670	05/20/80	BROMBERG			
	4,213,762	07/80	SATO			
	4,223,680	09/23/80	JOBSIS			
	4,236,526	12/02/80	RICHARD			
	4,266,549	05/12/81	KIMURA			
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	4,407,964	10/04/83	ELINGS et al.			
	4,449,535	05/22/84	RENAULT			
	4,501,970	02/26/85	NELSON			
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	4,541,438	09/17/85	PARKER et al.			
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	4,577,110	03/18/86	MacBRIDE et al.			
	4,600,306	07/15/86	HARA et al.			
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	4,661,711	04/28/87	HARJUNMAA			
	4,675,529	06/23/87	KUSHIDA			

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	4,682,594	07/28/87	MOK			
	4,686,371	08/11/87	BIRCH et al.			
	4,697,870	10/06/87	RICHARDS			
	4,718,417	01/12/88	KITTRELL et al.			
	4,722,607	02/02/88	ANSELMANT et al.			
	4,731,326	03/15/88	THOMPSON et al.			
	4,751,190	06/14/88	CHIAPETTA et al.			
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	4,785,513	09/06/88	SUZUKI			
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	4,768,513	11/22/88	DECKELBAUM			
	4,786,170	11/22/88	GROEBLER			
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	4,840,485	06/20/89	GRATTON			
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	4,957,114	09/18/90	ZENG et al.			
	4,972,331	11/20/90	CHANCE			

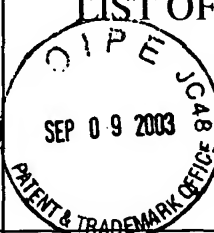
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EXAMINER'S INITIALS	*PATENT NO.	*ISSUE DATE	*INVENTOR NAME	CLASS	SUBCLASS	FILING DATE	
	4,973,848	11/27/90	KOLOBANOV et al.				
	4,981,138	01/01/91	DECKELBAUM et al.				
	4,988,212	01/29/91	SUN et al.				
	5,003,977	04/02/91	SUZUKI et al.				
	5,014,707	05/14/91	SCHWARZ et al.				
	5,021,661	06/04/91	MASUTANI				
	5,022,757	06/11/91	MODELL				
	5,030,982	07/09/91	WILLIAMS et al.				
	5,034,010	07/23/91	KITTRELL et al.				
	5,039,219	08/13/91	JAMES et al.				
	5,042,494	08/27/91	ALFANO				
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	5,053,626	10/01/91	TILLOTSON				
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	5,062,431	11/05/91	POTTER				
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	5,115,137	05/19/92	ANDERSSON-ENGELS et al.				
	5,119,815	06/09/92	CHANCE				
	5,122,974	06/16/92	CHANCE				
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	5,127,405	07/07/92	ALCALA et al.				
	5,131,398	07/21/92	ALFANO et al.				
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	5,151,869	09/29/92	ALCALA				
	5,154,164	10/13/92	CHIKAMA				
	5,168,162	12/01/92	OONG et al.				
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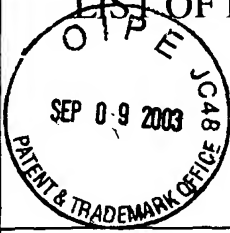
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EXAMINER'S INITIALS	*PATENT NO.	*ISSUE DATE	*INVENTOR NAME	CLASS	SUBCLASS	FILING DATE	
	5,187,672	02/16/93	CHANCE				
	5,192,278	03/09/93	HAYES et al.				
	5,196,709	03/23/93	BERNDT et al.				
	5,201,318	04/13/93	RAVA et al.				
	5,201,908	04/13/93	JONES				
	5,205,291	04/27/93	POTTER				
	5,212,099	05/18/93	MARCUS				
	5,213,105	05/25/93	GRATTON et al.				
	5,257,202	10/26/93	FEDDERSEN et al.				
	5,261,410	11/16/93	ALFANO et al.				
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	5,332,905	07/26/94	BROOKER et al.				
	5,340,716	08/23/94	ULLMAN et al.				
	5,345,941	09/13/94	RAVA et al.				
	5,348,018	09/20/94	ALFANO et al.				
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	5,349,954	09/27/94	TIEMANN et al.				
	5,353,799	10/11/94	CHANCE				
	5,363,854	11/15/94	MARTENS et al.				
	5,369,496	11/29/94	ALFANO et al.				
	5,370,119	12/06/94	MORDON et al.				
	5,377,676	01/03/95	VARI et al.				
	5,383,467	01/24/95	AUER et al.				
	5,386,827	02/07/95	CHANCE et al.				
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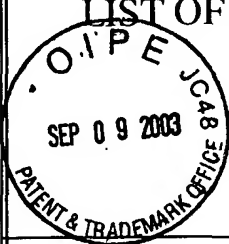
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	5,395,752	03/07/95	LAW et al.						
	5,402,778	04/04/95	CHANCE						
	5,408,996	04/25/95	SALB						
	5,413,108	05/09/95	ALFANO						
	5,419,323	05/30/95	KITTRELL et al.						
	5,421,337	06/06/95	RICHARDS-KORTUM et al.						
	5,421,339	06/06/95	RAMANUJAM et al.						
	5,422,719	06/06/95	GOLDSTEIN						
	5,435,307	07/25/95	FRIAUF et al.						
	5,439,000	08/08/95	GUNDERSON et al.						
	5,452,723	09/26/95	WU et al.						
	5,459,323	10/17/95	MORGAN						
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	5,467,767	11/21/95	ALFANO et al.						
	5,474,910	12/12/95	ALFANO						
	5,479,099	12/1995	JILES et al.						
	5,480,775	01/02/96	ITO et al.						
	5,485,530	01/16/96	LAKOWICZ et al.						
	5,489,536	02/06/96	EKECHUKWU						
	5,491,343	02/13/96	BROOKER						
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	5,500,536	03/19/96	NOGAMI et al.						
	5,503,616	04/02/96	JONES						
	5,504,336	04/02/96	NOGUCHI						
	5,507,287	04/16/96	PALCIC et al.						
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	5,517,313	05/14/96	COLVEN, Jr.						
	5,533,508	07/09/96	DOIRON						
	5,536,235	07/16/96	YABE et al.						
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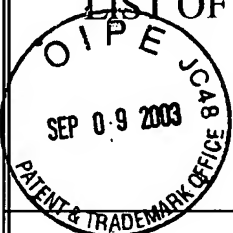
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	5,533,614	09/10/96	CHANCE				
	5,555,885	09/17/96	CHANCE				
	5,557,415	09/17/96	NIELSEN et al.				
	5,562,100	10/08/96	KITTRELL et al.				
	5,564,417	10/15/96	CHANCE				
	5,565,982	10/15/96	LEE et al.				
	5,579,773	12/03/96	VO-DINH et al.				
	5,582,168	12/10/96	SAMUELS et al.				
	5,590,660	01/07/97	MacAULAY et al.				
	5,596,987	01/28/97	CHANCE				
	5,596,992	01/28/97	HAALAND et al.				
	5,601,079	02/11/97	WONG et al.				
	5,601,087	02/11/97	GUNDERSON et al.				
	5,612,540	03/18/97	RICHARDS-KORTUM et al.				
	5,619,992	04/15/97	GUTHRIC et al.				
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	5,626,134	05/06/97	ZUCKERMAN				
	5,628,310	05/13/97	RAO et al.				
	5,630,423	05/20/97	WANG et al.				
	5,635,402	06/03/97	ALFANO et al.				
	5,647,368	07/15/97	ZENG et al.				
	5,664,574	09/09/97	CHANCE				
	5,673,701	10/07/97	CHANCE				
	5,674,182	10/07/97	SUZUKI et al.				
	5,678,550	10/21/97	BASSEN et al.				
	5,683,888	11/04/97	CAMPBELL				
	5,687,730	11/18/97	DOIRON et al.				
	5,697,373	12/16/97	RICHARDS-KORTUM et al.				
	5,699,795	12/23/97	RICHARDS-KORTUM et al.				
	5,699,798	12/23/97	HOCHMAN et al.				
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	5,713,352	02/03/98	ESSENPREIS et al.				
	5,713,364	02/03/98	DEBRAYSHE et al.				
	5,722,406	03/03/98	PAPAIIOANNOU				
	5,762,609	06/09/98	BENARON et al.				
	5,797,836	08/25/98	LUCEY et al.				
	5,807,263	09/15/98	CHANCE				
	5,827,177	10/27/98	ONEDA et al.				
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 <p><b>LIST OF PRIOR ART CITED BY APPLICANT</b> (PTO-1449)</p>				ATTY. DOCKET NO. <b>SPRX-0068</b>		APPLN. SERIAL NO. <b>10/647,222</b>	
				APPLICANT(S) <b>Mark L. FAUPEL, et al.</b>			
				CUSTOMER NO. 34610			
				FILING DATE <b>August 26, 2003</b>		GROUP <b>To Be Assigned</b>	
<b>U.S. PATENT DOCUMENTS</b>							
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